

Amendments to the drawings

Please insert the enclosed replacement drawing sheet containing figures 3-5 for the drawing sheet originally submitted with this application. These figures have been labeled "PRIOR ART" as described in the specification.

Remarks

The Applicant affirms the election of the species of Fig. 6 for continued prosecution of this application. Claims 1-8, 29, and 30 read on the elected species. The new claims also read on this species of the invention.

The Applicant respectfully disagrees with the Examiner's indication that claim 29 is generic. Claim 29 requires the width of the base wall to be greater than the height of the muntin bar element. The Applicant has disclosed muntin bar element embodiments having heights greater than the widths. Claim 29 is thus not generic to all embodiments disclosed in the application. The Applicant also respectfully disagrees with some of the Examiner's species identifications. The issue is, however, moot in view of the Applicant's election of the Fig. 6 species for continued prosecution. The claims now pending are not generic but are not limited to the Fig. 6 species.

The Applicant also respectfully traverses the Examiner's contention that claims 31-39 presented subject matter that was independent and distinct from the claims originally elected for prosecution. This issue is currently moot in view of the Applicant's election of the Fig. 6 species.

The Applicant has submitted the corrected drawing sheet in response to the objection to the drawing.

The Examiner rejected claims 1-6, 13, and 29 as being anticipated by US Patent 5,732,517 to Milikovsky. The Examiner rejected claims 7-8 and 30 as being obvious in view of the combination of Milikovsky and Glover. The Applicant respectfully traverses the rejections.

The pending claims cover muntin bar elements. In the insulating glazing art, muntin bars are independent and distinct from spacers. The patent office has already made record of the fact that muntins and spacers are independent and distinct – and thus independently patentable (see MPEP 802.01) - from one another in this application. *Office Action* dated June 2, 2004, in this application. In this *Office Action*, the Examiner clearly sets forth the Patent Office's position that muntin bar element inventions are distinct from spacer inventions. *Id.*, at

page 2. The Examiner relationship between muntin bar elements (Invention I) and spacers (Invention II) was explained as "Inventions I and II are unrelated." *Id.* The Examiner continued to explain that the inventions "have acquired a separate status in the art." *Id.* The Applicant thus respectfully traverses the citation of the Milikovsky spacer against the pending muntin bar element claims. The Applicant has carefully review Milikovsky and finds no disclosure or teachings related to muntin bar elements. The Applicant thus respectfully requests the rejection to be withdrawn.

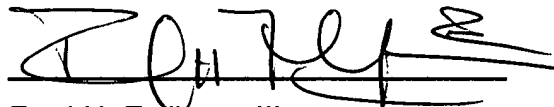
In addition, the Applicant respectfully traverses the rejection on the grounds that the Milikovsky reference does not container the disclosures or teachings cited by the Examiner. In support of the rejection, the Examiner relies on his own interpretation of Milikovsky's Figure 1 where the following assumptions have been made: (1) the Examiner assumes the non-crosshatched portions shown in the Figures are insulating cavities; (2) the Examiner assumes the dimensions of the non-crosshatched portions and the material of the spacer and summarily concludes that one is larger than the other; and (3) the Examiner assumes the dimension between the non-crosshatched portions. The Applicant respectfully submits that the Examiner's interpretation of the drawing cannot support the anticipation or obviousness-types rejections. Patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue. *Hockerson-Halberstadt, Inc. v. Avia Group Int'l, Inc.*, 55 USPQ 2d 1487, 1491 (Fed. Cir. 2000). See *In re Wright*, 569 F.2d 1124, 1127, 193 USPQ 332, 335 (CCPA 1977) ("Absent any written description in the specification of quantitative values, arguments based on measurement of a drawing are of little value."). See MPEP § 2125, PROPORTIONS OF FEATURES IN A DRAWING ARE NOT EVIDENCE OF ACTUAL PROPORTIONS WHEN DRAWINGS ARE NOT TO SCALE, Rev. 1, Feb. 2003. Milikovsky does not indicate that its drawings are to scale. The material cited in the written description of Milikovsky does not support the Examiner's conclusions. The only insulating chambers discussed in Milikovsky are the chambers formed between the glass sheets.

Milikovsky says nothing about the spacer structures and dimensions. The measurements assumed by the Examiner are thus irrelevant unless tied to material in the written disclosure that specifically discloses the spacing and the relative cross sectional areas. The Applicant submits that no such material exists and that the rejection should be withdrawn. The Examiner is also respectfully directed to CFR § 1.84(k) where scale drawings are discouraged. 37 CFR § 1.84 encourages the Applicant to provide exaggeration in the drawings to show the mechanism of the invention without crowding the drawing. The Applicant thus submits that the Milikovsky drawings cannot provide the necessary disclosure to support an anticipation or obviousness-types rejection for the claimed subject matter.

The Applicant has added new claims and respectfully requests the claims to be examined.

In view of the foregoing, the Applicant respectfully requests reconsideration of the claims and most earnestly solicits the issuance of a formal Notice of Allowance for the claims.

Please call the undersigned attorney if any issues remain after this amendment.

A handwritten signature in black ink, appearing to read 'Fred H. Zollinger III', with a stylized flourish at the end.

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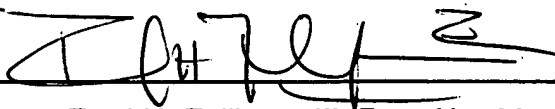
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I hereby certify that this correspondence (Amendment B in application serial no. 10/613,256 filed 07-03-2003) is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 31, 2005.



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